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MAY 29 2008
U.S. DISTRICT JUDGE
S.D.N.Y.
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(1944-1998)

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The Honorable Harold Baer, III
United States District Judge
United States District Court
Daniel Patrick Moynihan United States Courthouse
Southern District of New York
500 Pearl Street, Room 2230
New York, New York 10007

<p>USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 5/29/08</p>

Re: Discovision Associates v. Toshiba Corporation
08 CV 3693 (HB) (S.D.N.Y.)
Our File D680-002

Dear Judge Baer:

We represent the defendant, Toshiba Corporation ("Toshiba"), in the above-captioned civil action. Yesterday, May 28, 2008, our firm was served by hand with plaintiff, Discovision Associates' ("Discovision's") motion for partial summary judgment, a supporting memorandum, a supporting declaration and a Rule 56.1 statement of facts.

As Your Honor is aware, the parties have stipulated to allow Toshiba until June 4, 2008, to answer, move or otherwise plead in response to Discovision's complaint. We write to inform the Court that Toshiba intends to file a motion to dismiss this case for lack of proper service or, alternatively, to quash plaintiff's proof of service on June 4th.

In light of these facts, and in order to secure the orderly and efficient resolution of each parties' claims, we respectfully request that the Court issue a motion briefing schedule that allows Toshiba's motion to dismiss or quash for improper service to be resolved before it is required to oppose Discovision's motion for partial summary judgment.

The Honorable Harold Baer, III

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May 29, 2008

By virtue of a telephone conference that took place between counsel on May 16, 2008, Discovision is fully aware of Toshiba's position regarding improper service. Consequently, Discovision's motion for partial summary judgment appears to be intended to foreclose Toshiba from having an opportunity to file its motion to dismiss or quash for improper service.

Respectfully submitted,

Frank J. Colucci
Frank J. Colucci

FJC\MJP:lt

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*lets get the service
noticed out of the way -
a full week of the motion to
be in chambers by the 20th of June
the Partial Summary Judgment
motion by June 30, 08 & I will
endeavor to resolve the service
issue w/ in a few days. I'd
like to see a good receipt of the
motion on the 30th
on June 30th I will
file the motion on the 30th
to resolve that motion. The PFC
will be filed 2 at 2 PM*

SO ORDERED: 5/29/08
Harold Baer, III, U.S.D.J.
Date: 5/29/08

Endorsement :

Let's get the service problem out of the way - a fully briefed motion is to be in Chambers by the 20th of June, the partial summary judgment motions by June 30, 2008 and I will endeavor to resolve the service problem within a few days. If there is good service I will go on following receipt of the fully briefed motion on the 30th to resolve that motion. The pre-trial conference will be held on Monday, June 2 at 2 P.M.